

PETER C. HARVEY
Attorney General of New Jersey
Division of Law
124 Halsey Street
P. O. Box 45029
Newark, New Jersey 07102

FILED

August 17, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: Sunil Raval
Deputy Attorney General
(973) 648-4741

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF :
Herbert Fichman, D.O. : Administrative Action
TO PRACTICE MEDICINE AND SURGERY : CONSENT ORDER
IN THE STATE OF NEW JERSEY :
:

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon receipt of allegations that Herbert Fichman, D.O. ("Respondent"), through his prescribing practices, contributed to patient K.P.'s death from a possible drug overdose on December 31, 2000.

Respondent has a prior disciplinary history with the Board. Specifically, respondent entered into a Consent Order dated May 5, 1994, whereby Respondent was reprimanded for record-keeping violations. In addition, Respondent entered a Consent Order dated October 28, 1996, whereby Respondent was reprimanded for engaging

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Patient K.P. was first seen by Respondent on 5/17/99 for injuries suffered as a result of a car accident and his last treatment was on 12/27/2000. K.P. had suffered serious shoulder injuries which resulted in severe pain and several surgeries. In addition, K.P. was diagnosed with lumbar disc problems.

In 1999, Respondent assessed K.P. with suffering from side effects due to tranquilizer medications, including depression and lethargy. On July 11, 2000, Respondent recommended that K.P. enter in-patient treatment for possible ~~abuse of prescription~~ medication.

A review of the patient record revealed that aspects of the general care of patient K.P. failed to meet the standard of care in the area of pain management.

Patient L. W. was initially seen on July 6, 1997. A review of the L.W.'s patient record reveals an incomplete medical history for a patient experiencing back pain, lack of vaccination history, and lack of medication history.

The Board having found the within disposition adequately protective of the public health, safety and welfare and the licensee being desirous of resolving this matter without the need for further formal proceedings,

IT IS ON THIS 17th DAY OF August, 2004;

ORDERED :

1. Respondent, Herbert Fichman, D.O., is hereby reprimanded for poor record-keeping, lack of communication with fellow treating physicians, poor assessment of addictive aspects of his patients and incomplete diagnostic assessment in violation of N.J.A.C. 13:35-7.6 and N.J.A.C. 13:35-6.5, which violation constitute a violation of N.J.S.A. 45:9-22.19 and N.J.S.A. 45:1-21(h).

2. Respondent shall, within the twelve months following entry of this Order, enroll in and successfully complete a mini-residency program in pain management and addiction medicine approved in advance by the Board. Successful completion means that all